

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

CHAPTER 13 PLAN - AMENDED
AND RELATED MOTIONS

Name of Debtor(s): **David C. White**

Case No: **09-33543-DOT**

This plan, dated July 27, 2009, is:

- ☐ the *first* Chapter 13 plan filed in this case.
☒ a modified plan, which replaces the plan dated 6/4/2009.

Date and Time of Modified Plan Confirming Hearing:

September 16, 2009 at 11:00 a.m.

Place of Modified Plan Confirmation Hearing:

701 E. Broad St. Rm 5100, Richmond, VA 23219

The plan provisions modified by this filing are:

SPELLS OUT PAYMENT MADE ON FIRST MORTGAGE AND Section 11 Explanation

Creditors affected by this modification are:

NONE - Explanation Only

NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.

This plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than ten (10) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.

The debtor(s)' schedules list assets and liabilities as follows:

Total Assets: **\$179,411.00**

Total Non-Priority Unsecured Debt: **\$91,140.31**

Total Priority Debt: **\$0.00**

Total Secured Debt: **\$175,000.00**

1. **Funding of Plan.** The debtor(s) propose to pay the trustee the sum of **\$500.00 Monthly for 36 months**. Other payments to the Trustee are as follows: NONE. The total amount to be paid into the plan is \$ 18,000.00.

2. **Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.

A. Administrative Claims under 11 U.S.C. § 1326.

1. The Trustee will be paid 10% of all sums disbursed except for funds returned to the debtor(s).
2. Debtor(s)' attorney will be paid \$ 7,000.00 balance due of the total fee of \$ 3,000.00 concurrently with or prior to the payments to remaining creditors.

B. Claims under 11 U.S.C. § 507.

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

<u>Creditor</u>	<u>Type of Priority</u>	<u>Estimated Claim</u>	<u>Payment and Term</u>
-NONE-			

3. **Secured Creditors and Motions to Value Collateral.**

This paragraph provides for claims of creditors who hold debts that are secured by real or personal property of the debtors(s) but (a) are not secured solely by the debtor(s)' principal residence and (b) do not have a remaining term longer than the length of this plan.

A. Claims to Which § 506 Valuation is NOT Applicable. Claims listed in this subsection consist of debts secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor for which the debt was incurred within 910 days of the filing of the bankruptcy petition, or if the collateral for the debt is any other thing of value, the debt was incurred within 1 year of filing. See § 1325(a)(5). After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the amount of the claim in column (d) with interest at the rate stated in column (e). **Upon confirmation of the plan, the interest rate shown below will be binding unless a timely written objection to confirmation is filed and sustained by the Court.** Payments distributed by the Trustee are subject to the availability of funds.

(a) <u>Creditor</u>	(b) <u>Collateral</u>	(c) <u>Purchase Date</u>	(d) <u>Est Claim Amt</u>	(e) <u>Interest Rate</u>	(f) <u>Monthly Paymt& Estimate Term**</u>
-NONE-					

B. Claims to Which § 506 Valuation is Applicable. Claims listed in this subsection consist of any claims secured by personal property not described in Plan paragraph 3.A. After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the replacement value as stated in column (d) or the amount of the claim, whichever is less, with interest at the rate stated in column (e). The portion of any allowed claim that exceeds the value indicated below will be treated as an unsecured claim. **Upon confirmation of the plan, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed and sustained by the Court.** Payments distributed by the Trustee are subject to the availability of funds.

(a) <u>Creditor</u>	(b) <u>Collateral</u>	(c) <u>Purchase Date</u>	(d) <u>Replacement Value</u>	(e) <u>Interest Rate</u>	(f) <u>Monthly Paymt& Estimate Term**</u>
-NONE-					

**** THE MONTHLY PAYMENT STATED HERE SHALL BE THE ADEQUATE PROTECTION PAYMENTS PURSUANT TO 1326(a)(1)(C) TO THESE CREDITORS UNLESS OTHERWISE PROVIDED IN PARAGRAPH 11 OR BY SEPARATE ORDER OF THE COURT.**

- C. Collateral to be surrendered.** Upon confirmation of the plan, or before, the debtor will surrender his or her interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled shall be paid as a non-priority unsecured claim. The order confirming the plan shall have the effect of terminating the automatic stay as to the collateral surrendered.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Estimated Total Claim</u>	<u>Full Satisfaction (Y/N)</u>
-NONE-			

4. Unsecured Claims.

- A. Not separately classified.** Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately 5 %. If this case were liquidated under Chapter 7, the debtor(s) estimate unsecured creditors would receive a dividend of approximately 0 %.

- B. Separately classified unsecured claims.**

<u>Creditor</u>	<u>Basis for Classification</u>	<u>Treatment</u>
-NONE-		

5. Long Term Debts and claims Secured by the Debtor(s)' Primary Residence.

Creditors listed below are either secured by the debtor(s)' principal residence or hold a debt the term of which extends beyond the term of this plan.

- A. Debtor(s) to pay claim directly.** The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any, will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Estimated Cure Period</u>	<u>Monthly Arrearage Payment</u>
Midland Mortgage Company	6688 Tatum Rd., Disputanta, VA (Prince George County)	1,555.00	5,000.00	0%	12 months	Prorata

- B. Trustee to pay the contract payments and the arrearages.** The creditors listed below will be paid by the Trustee the regular contract monthly payments during the term of this plan. The arrearage claims, if any, will be cured by the Trustee by payments made either pro rata with other secured claims or by fixed monthly payments as indicated below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Term for Arrearage</u>	<u>Monthly Arrearage Payment</u>
-NONE-						

6. Executory Contracts and Unexpired Leases. The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.

- A. Executory contracts and unexpired leases to be rejected.** The debtor(s) reject the following executory contracts.

<u>Creditor</u>	<u>Type of Contract</u>
-NONE-	

- B. Executory contracts and unexpired leases to be assumed.** The debtor(s) assume the following executory contracts. The debtor agrees to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Type of Contract</u>	<u>Arrearage</u>	<u>Monthly Payment for Arrears</u>	<u>Estimated Cure Period</u>
-NONE-				

7. Motions to Avoid Liens.

- A. The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f).** The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. **Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and cancel the creditor's lien.** If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

<u>Creditor</u>	<u>Collateral</u>	<u>Exemption Basis and Amount</u>	<u>Value of Collateral</u>
-NONE-			

- B. Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f).** The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons accompanying such pleadings as to the requirements for opposing such relief. The listing here is for informational purposes only.

<u>Creditor</u>	<u>Type of Lien</u>	<u>Description of Collateral</u>	<u>Basis for Avoidance</u>
Citi Mortgage Inc.	Second Deed of Trust	6688 Tatum Rd., Disputanta, VA (Prince George County)	

8. Treatment of Claims.

- All creditors must timely file a proof of claim to receive payment from the Trustee.
- If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the plan, the creditor may be treated as unsecured for purposes of distribution under the plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
- If a claim is listed in the plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the plan.

- 9. Vesting of Property of the Estate.** Property of the estate shall revert in the debtor(s) upon confirmation of the plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, or encumber real property without approval of the court.

- 10. Incurrence of indebtedness.** During the term of the plan, the debtor(s) shall not voluntarily incur additional indebtedness in an amount exceeding \$5,000 without approval of the court.

11. Other provisions of this plan:
EXPLANATION OF SECTION 2.A

Payment of Attorney Fees - The claim for attorney fees shall be paid out of funds available upon first disbursement after confirmation of the plan and until such claim is paid in full, except as reserved for adequate protection payments on allowed secured claims, if any, and trustee commissions.

Explanation of Attorney Fees - \$2,894 (\$3,000 total - \$106 paid to date) covers the cost of this bankruptcy and shall be paid as attorney fees. The additional \$4,000 shall be paid upon approval by the court and is reserved for attorney fees to be incurred in the Adversary Proceeding to remove the second mortgage on the real estate.

EXPLANATION OF SECTION 7.B.

The deed of trust held by CitiMortgage is not secured pursuant to 11 U.S.C. 506. DIB will be filing an adversary proceeding to remove that lien and treat it as unsecured.

MIDLAND MORTGAGE

As a secured creditor holding an interest in the property being retained by the Debtor, Midland Mortgage (or its successors) shall provide monthly statements to the debtor to assist in tracking and making payments on that mortgage. Said statements shall NOT be considered a violation of the automatic stay.

Payment on the first mortgage is listed in as an estimate. It is provided for in the plan as a direct payment from the debtor per the terms of the deed of trust and note in effect now or modified during the term of this plan. If the amount listed is incorrect, the amount being paid is per the terms as agreed and neither this plan, nor any plan, IN ANY WAY MODIFIES OR ATTEMPTS TO MODIFY SAID NOTE IN VIOLATION OF 11 U.S.C. 1301 et seq.

Signatures:

Dated: July 27, 2009

/s/ David C. White
David C. White
Debtor

/s/ Mitchell P. Goldstein, Esq.
Mitchell P. Goldstein, Esq. 40613
Debtor's Attorney

Exhibits: **Copy of Debtor(s)' Budget (Schedules I and J);**
 Matrix of Parties Served with plan

Certificate of Service

I certify that on July 27, 2009, I mailed a copy of the foregoing to the creditors and parties in interest on the attached

Service List.

/s/ Mitchell P. Goldstein, Esq.

Mitchell P. Goldstein, Esq. 40613

Signature

1650 Willow Lawn Drive

Suite 300

Richmond, VA 23230

Address

804.673.4358

Telephone No.

Ver. 06/28/06 [effective 09/01/06]

United States Bankruptcy Court
Eastern District of Virginia

In re David C. White

Debtor(s)

Case No. 09-33543-DOT

Chapter 13

SPECIAL NOTICE TO SECURED CREDITOR

To: Citi Mortgage Inc.
Attention: Bankruptcy Dept.; P.O. Box 79022, MS322; Saint Louis, MO 63179
Name of creditor

6688 Tatum Rd., Disputanta, VA (Prince George County)
Description of collateral

1. The attached chapter 13 plan filed by the debtor(s) proposes (*check one*):
- ☐ To value your collateral. *See Section 3 of the plan.* Your lien will be limited to the value of the collateral, and any amount you are owed above the value of the collateral will be treated as an unsecured claim.
- ☒ To cancel or reduce a judgment lien or a non-purchase money, non-possessory security interest you hold. *See Section 7 of the plan.* All or a portion of the amount you are owed will be treated as an unsecured claim.
2. *You should read the attached plan carefully for the details of how your claim is treated.* The plan may be confirmed, and the proposed relief granted, unless you file and serve a written objection by the date specified and appear at the confirmation hearing. A copy of the objection must be served on the debtor(s), their attorney, and the chapter 13 trustee.

Date objection due: September 4, 2009
Date and time of confirmation hearing: September 16, 2009 at 11:00 a.m.
Place of confirmation hearing: 701 E. Broad St. Rm 5100, Richmond, VA 23219

David C. White

Name(s) of debtor(s)

By: /s/ Mitchell P. Goldstein, Esq.

Mitchell P. Goldstein, Esq. 40613

Signature

☒ Debtor(s)' Attorney

☐ Pro se debtor

Mitchell P. Goldstein, Esq. 40613

Name of attorney for debtor(s)

1650 Willow Lawn Drive

Suite 300

Richmond, VA 23230

Address of attorney [or pro se debtor]

Tel. # 804.673.4358

Fax # 804.673.4350

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Notice and attached Chapter 13 Plan and Related Motions were served upon the creditor noted above by

☒ first class mail in conformity with the requirements of Rule 7004(b), Fed.R.Bankr.P; or

☐ certified mail in conformity with the requirements of Rule 7004(h), Fed.R.Bankr.P

on this July 27, 2009.

/s/ Mitchell P. Goldstein, Esq.

Mitchell P. Goldstein, Esq. 40613

Signature of attorney for debtor(s)

Ver. 06/28/06 [effective 09/01/06]

B6I (Official Form 6I) (12/07)

In re **David C. White**

Debtor(s)

Case No. **09-33543-DOT****SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S):	AGE(S):
	Granddaughter	1.5
	Stepdaughter	14
	Stepson	16
Employment:	DEBTOR	SPOUSE
Occupation	Builder	
Name of Employer	Stone Creek Builders, LLC	NOT EMPLOYED
How long employed	10 years	
Address of Employer	6688 Tatum Rd. Disputanta, VA 23842	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ 5,026.67	\$ 0.00
\$ 0.00	\$ 0.00

3. SUBTOTAL

\$ 5,026.67	\$ 0.00
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4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify):

\$ 1,228.28	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ 1,228.28	\$ 0.00
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6. TOTAL NET MONTHLY TAKE HOME PAY

\$ 3,798.39	\$ 0.00
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7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify): **Food Stamps**

\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00

\$ 0.00	\$ 0.00
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\$ 0.00	\$ 526.00
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\$ 0.00	\$ 0.00
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12. Pension or retirement income

13. Other monthly income

(Specify): **Estimated Pro Rated Tax Refunds**

\$ 0.00	\$ 0.00
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\$ 600.00	\$ 0.00
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\$ 0.00	\$ 0.00
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14. SUBTOTAL OF LINES 7 THROUGH 13

\$ 600.00	\$ 526.00
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ 4,398.39	\$ 526.00
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16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ 4,924.39	
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(Report also on Summary of Schedules and, if applicable, on
Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

None Expected.

1. Rent or home mortgage payment (include lot rented for mobile home)		\$	1,555.00
a.	Are real estate taxes included?	Yes <u>X</u>	No ____
b.	Is property insurance included?	Yes <u>X</u>	No ____
2. Utilities:	a. Electricity and heating fuel	\$	300.00
	b. Water and sewer	\$	0.00
	c. Telephone	\$	100.00
	d. Other See Detailed Expense Attachment	\$	323.00
3.	Home maintenance (repairs and upkeep)	\$	85.00
4.	Food	\$	750.00
5.	Clothing	\$	25.00
6.	Laundry and dry cleaning	\$	0.00
7.	Medical and dental expenses	\$	200.00
8.	Transportation (not including car payments)	\$	450.00
9.	Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	10.00
10.	Charitable contributions	\$	35.00
11.	Insurance (not deducted from wages or included in home mortgage payments)		
	a. Homeowner's or renter's	\$	0.00
	b. Life	\$	0.00
	c. Health	\$	0.00
	d. Auto	\$	100.00
	e. Other	\$	0.00
12.	Taxes (not deducted from wages or included in home mortgage payments) (Specify) Personal Property Taxes	\$	20.00
13.	Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
	a. Auto	\$	0.00
	b. Other	\$	0.00
	c. Other	\$	0.00
14.	Alimony, maintenance, and support paid to others	\$	0.00
15.	Payments for support of additional dependents not living at your home	\$	0.00
16.	Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
17.	Other See Detailed Expense Attachment	\$	525.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)		\$	4,478.00
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: None Expected. Transportation includes vehicle repairs and rental for a second vehicle when needed.			
20. STATEMENT OF MONTHLY NET INCOME			
a.	Average monthly income from Line 15 of Schedule I	\$	4,924.39
b.	Average monthly expenses from Line 18 above	\$	4,478.00
c.	Monthly net income (a. minus b.)	\$	446.39

B6J (Official Form 6J) (12/07)

In re David C. WhiteCase No. 09-33543-DOT

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**Detailed Expense Attachment****Other Utility Expenditures:**

<u>Cell phone</u>	\$	<u>243.00</u>
<u>Cable</u>	\$	<u>80.00</u>
<u>Total Other Utility Expenditures</u>	\$	<u>323.00</u>

Other Expenditures:

<u>Personal Care & Contingency Expenses</u>	\$	<u>125.00</u>
<u>School & Extracurricular Activities</u>	\$	<u>150.00</u>
<u>Support for Grandchild Living with them</u>	\$	<u>250.00</u>
<u>Total Other Expenditures</u>	\$	<u>525.00</u>

David C. White
6688 Tatum Rd
Disputanta, VA 23842

Commonwealth of Virginia
Director of Finance
P.O. Box 760
Richmond, VA 23218-0760

Robert B. Van Arsdale
Assistant U.S. Trustee
701 E. Broad Street, Suite 4304
Richmond, VA 23219-1885

Internal Revenue Service
P.O. Box 21126
Philadelphia, PA 19114

Allied Interstate
3000 Corporate Exchange Drive
Columbus, OH 43231

AT&T
17000 Cantrell Road, 2nd Floor
Little Rock, AR 72223-4266

Barclays Bank Delaware
Attn: Customer Support Dept.
P.O. Box 8833
Wilmington, DE 19899

Bruce and Marjorie Bevans
1014 Pecan Avenue
Hopewell, VA 23860

Capital One Bank
c/o TSYS Debt. Management
P.O. Box 5155
Norcross, GA 30091

Chesterfield County
Attn: Treasurer
P.O. Box 26585
Richmond, VA 23285-0088

Chris & Donna Smiley
20207 Oak Ridge River Court
Petersburg, VA 23803

Citi Mortgage Inc.
Attention: Bankruptcy Dept.
P.O. Box 79022, MS322
Saint Louis, MO 63179

Collection Company of America
700 Longwater Drive
Norwell, MA 02061

Collection Services
180 E Burgess Rd Ste G
Pensacola, FL 32503

Dale Memorial Park
P.O. Box 61061
New Orleans, LA 70161-1061

Denis Englisby
Englisby, Sloane & Vaughn
10101 Iron Bridge Road
Chesterfield, VA 23838

Drs. Ragsdale & Slagle
9 Holly Hill Drive
Petersburg, VA 23805

G.E. Money Bank
Attn: Bankruptcy Department
P.O. Box 103104
Roswell, GA 30076

HSBC Card Services
Bankruptcy Department
P.O. Box 5253
Carol Stream, IL 60197

I.C. System
444 Highway 96 East
Saint Paul, MN 55127-2557

LCA Collections
P.O. Box 1545
Burlington, NC 27216

Midland Mortgage Company
Attn: Bankruptcy
P.O. Box 26648
Oklahoma City, OK 73216

Rauch-Milliken International
P.O. Box 8390
Metairie, LA 70011-8390

Solomon and Solomon, P.C.
Five Columbia Circle
Albany, NY 12203

Verizon - Bankruptcy Dept.
3900 Washington Street
Wilmington, DE 19802

Wachovia Dealer Services
2143 Convention Center Way
#200
Ontario, CA 91764

Yellowbook
6300 C Street
Cedar Rapids, IA 52404-7470